IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

WP No. 6886 of 2006

Between :

Major A. Madan Mohan ..
Petitioner

And

Municipal Corporation of Hyderabad
Rep. by Commissioner, Tank Bund,
Hyderabad and another ..
Respondents

Dated : 14th August, 2006

ORAL ORDER : (per JC,J)

Writ Petition is filed with the prayer as follows :

"For the reasons stated in the accompanying affidavit the petitioner herein prayed that this Hon'ble Court may be pleased to issue writ or direction preferably writ of mandamus declaring the demand notices issued by 1st respondent vide S.No. 18412 and 18413 dt. 19.10.2005 are illegal, arbitrary, contrary to G.O.Ms No.83 M.A. dt. 15.3.1997 and violative of principles of natural justice and consequently declare that the petitioner is entitled for exemption for payment of

property tax as per G.O. Ms. No. 83 dt. 15.3.1997, and pass such other or further orders as this Hon'ble Court deems fit and proper in the circumstances of the case."

The petitioner claims to be the absolute owner of the house property bearing No. 6-2-936 situated at Khairatabad, Rajbhavan Road, Hyderabad. It appears in view of the widening of the road undertaken by the Corporation in which the building is situated, the entire building had to be demolished and the petitioner intends to construct a residential complex. The petitioner it appears is a Retired Army Officer. The complaint of the petitioner is that on 19.10.2005, the 1st respondent issued a notice demanding a sum of Rs.6,40,503/- towards the tax owed by the petitioner to the 1st respondent corporation. The petitioner claims that the property owned by the petitioner is exempt from Municipal taxes, in view of G.O.Ms.No.83, M.A., dated 15.3.1997 and therefore the present writ petition.

Notice was ordered on 17.04.2006. The respondents filed a counter and the petitioner also filed a reply. The respondents filed a counter and the petitioner also filed a reply.

The fact that the petitioner is the owner of the building referred to above is not disputed by the respondents. In the counter they state that a part of the above mentioned building was earlier let out for commercial benefits and therefore the exemption given under G.O.Ms.No.83 referred to above is not applicable to such a building though owned by an

Ex-serviceman. Neither the notices issued by the respondents nor the counter affidavit filed by the respondents specify the period for which the petitioner is liable to pay the municipal tax. At para 4 of the counter, it is stated as follows :

> "4. … issued demand notices bearing No. 18412 dated 19.10.2005 amounting to Rs.2,49,214/- upto 31.3.2006 on premises No. 6-3-936 and demand notice bearing No. 18413 dated 19.10.2005 amounting to Rs.3,91,289/- upto 31.3.2006. The total amount comes to Rs. 6,40,503/-. Instead of paying the taxes the petitioner preferred an appeal before this Hon'ble Court."

Except mentioning that such amounts referred to above were due from the petitioner, no further information as to how such amount became due, under what heads such an amount is due to the Corporation and for what periods such amounts were due to be paid to the Corporation is made available.

In the circumstances, we deem it appropriate to allow the writ petition and quash the notice S.No. 18412 and 18413 dated 19.10.2005 and declare them as arbitrary. Whether they are also violative of G.O.Ms.No.83 or not as prayed in the writ petition is a matter to be decided on facts to be established, which facts are not available on record.

We therefore allow to the extent indicated above leaving it open to the respondents to issue appropriate demand notice after considering the representation of the petitioner if any.

(J.CHELAMESWAR, J)

(D.APPARAO, J)

14th August 2006.

Knk